

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

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10 Attorneys for S. J. WEAVER
11 CONTRACTING, INC. and STEVEN J.
12 WEAVER

13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 EDWARD T. BERGO as CHAIRMAN
16 and KARL BIK as CO-CHAIRMAN of
17 the BOARD OF TRUSTEES FOR THE
18 CEMENT MASONS HEALTH AND
19 WELFARE TRUST FUND FOR
20 NORTHERN CALIFORNIA; CEMENT
21 MASONS VACATION/HOLIDAY
22 TRUST FUND FOR NORTHERN
23 CALIFORNIA; CEMENT MASONS
24 PENSION TRUST FUND FOR
25 NORTHERN CALIFORNIA; and
26 CEMENT MASONS
27 APPRENTICESHIP AND TRAINING
28 TRUST FUND FOR NORTHERN
CALIFORNIA,

Plaintiffs,

vs.

S. J. WEAVER CONTRACTING, INC.,
a California corporation; and STEVEN J.
WEAVER, an Individual,

Defendant.

CASE NO. C-04-4723 SI

Assigned to Hon. Susan Illston for all
purposes.

**STIPULATION AND [PROPOSED]
PROTECTIVE ORDER RE
PRODUCTION OF DOCUMENTS**

Complaint Filed: 11/08/04
Voluntary Petition Filed: 05/10/05

IT IS HEREBY STIPULATED by and between EDWARD T. BERGO as
CHAIRMAN and KARL BIK as CO-CHAIRMAN of the BOARD OF TRUSTEES
FOR THE CEMENT MASONS HEALTH AND WELFARE TRUST FUND FOR
NORTHERN CALIFORNIA; CEMENT MASONS VACATION/HOLIDAY

1 TRUST FUND FOR NORTHERN CALIFORNIA; CEMENT MASONS
2 PENSION TRUST FUND FOR NORTHERN CALIFORNIA; and CEMENT
3 MASONS APPRENTICESHIP AND TRAINING TRUST FUND FOR
4 NORTHERN CALIFORNIA (“Plaintiffs or the “Trust Funds”), through their
5 attorneys of record, Stanton, Kay & Watson, LLP, by James P. Watson, and
6 STEVEN J. WEAVER (“Mr. Weaver”), through his attorneys of record, Atkinson,
7 Andelson, Loya, Ruud & Romo, by Thomas W. Kovacich, as follows:

8 1. Plaintiffs filed a Complaint on November 8, 2004 for breach of an
9 alleged collective bargaining agreement between S.J. Weaver Contracting, Inc.
10 (“SJW”) and the Northern District Council of Laborers (the “Union”). The
11 Complaint also sought damages against Mr. Weaver, alleging that he and SJW
12 constituted a “single employer” and was therefore also bound to the terms and
13 conditions of the collective bargaining agreement.

14 2. On May 10, 2005, SJW filed a voluntary petition seeking federal
15 bankruptcy protection.

16 3. On May 13, 2005, SJW gave notice to the Court and Plaintiffs of the
17 bankruptcy petition.

18 4. On June 3, 2005, the Court granted Mr. Weaver’s Motion to Set Aside
19 Default Judgment.

20 5. Plaintiffs still seek to enforce the terms and conditions of the collective
21 bargaining agreement against Mr. Weaver.

22 6. On June 17, 2005, Mr. Weaver filed his Answer to the Complaint
23 denying Plaintiffs various allegations and raising additional affirmative defenses.

24 7. On July 27, 2005, the Court held a Case Management Conference,
25 wherein the Court directed Plaintiffs to conduct the deposition of Steven Weaver in
26 October 2005, in order to determine if there was any basis for continuing to include
27 him in the lawsuit as an individual defendant. The Court directed that Mr. Weaver
28 should file a summary judgment motion following the deposition, on or before

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November 4, 2005, with a hearing date of December 9, 2005, should Plaintiffs be unwilling to dismiss him as an individual defendant following his deposition.

8. Plaintiffs have served extensive written documents requests on Mr. Weaver, and the parties have agreed that Mr. Weaver's deposition will take place on October 7, 2005.

9. Mr. Weaver contends that the records requested by the Trust Funds contain SJW's and Mr. Weaver's private, confidential, proprietary and trade secret information. (Mr. Weaver also contends that the records are vastly overbroad and objects that he be required to produce voluminous records of the now-defunct corporation, SJW, at his own considerable time and expense.) However, Mr. Weaver is willing to make certain responsive documents available for Plaintiffs to review and copy in accordance with the terms of this Stipulation.

10. Plaintiffs have therefore agreed that the documents produced by Mr. Weaver shall be produced and used expressly for the purposes of determining whether Plaintiffs have a viable claim against Mr. Weaver in the instant lawsuit. Plaintiffs agree that they will not utilize the information for any other purposes or outside of this litigation. Plaintiffs also agree that they will not cause any information from these records to be distributed to any parties other than Plaintiffs' counsel.

11. Within thirty (30) days after the conclusion of this lawsuit, counsel for the Trust Funds shall promptly return to Mr. Weaver all documents and copies produced pursuant to this stipulation.

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1 DATED: September ____, 2005 STANTON, KAY & WATSON, LLP

2
3 By: /s/_____
James P. Watson, Esq.
Attorneys for Plaintiffs

4
5 DATED: September ____, 2005 ATKINSON, ANDELSON, LOYA, RUUD &
ROMO

6
7 By: /s/_____
Thomas W. Kovacich
Christopher S. Milligan
Attorneys for S. J. WEAVER
CONTRACTING, INC. and STEVEN J.
WEAVER

10
11 **[PROPOSED] ORDER**

12 IT IS SO ORDERED.

13 DATED: _____

14
15 _____
HON. SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

